

Executive Summary – Enforcement Matter – Case No. 44751
City of Odessa
RN101614261
Docket No. 2012-1626-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Bob Derrington WWP, located at 9600 South County Road 1325, southeast of Odessa, approximately four miles southeast of the intersection of IH-20 and Loop 338, and approximately six miles east-southeast of the intersection of IH-20 and U.S. Highway 385, Midland County

Type of Operation:

Water reclamation plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: March 8, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$7,937

Amount Deferred for Expedited Settlement: \$1,587

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$6,350

Name of SEP: Texas Association of Resource Conservation and Development Areas, Inc.

Compliance History Classifications:

Person/CN - Average

Site/RN - High

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 44751
City of Odessa
RN101614261
Docket No. 2012-1626-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: July 6, 2012
Date(s) of NOE(s): July 16, 2012

Violation Information

Failed to comply with permitted effluent limitations for ammonia nitrogen [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010238002, Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The Order will also require Respondent to, within 90 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010238002, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Jacquelyn Green, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2587; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565
Respondent: The Honorable Larry Melton, Mayor, City of Odessa, P.O. Box 4398, Odessa, Texas 79760-4398

Executive Summary – Enforcement Matter – Case No. 44751
City of Odessa
RN101614261
Docket No. 2012-1626-MWD-E

Richard Morton, City Manager, City of Odessa, P.O. Box 4398, Odessa, Texas 79760-4398

Respondent's Attorney: N/A

Attachment A
Docket Number: 2012-1626-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Odessa
Payable Penalty Amount:	Six Thousand Three Hundred Fifty Dollars (\$6,350)
SEP Amount:	Six Thousand Three Hundred Fifty Dollars (\$6,350)
Type of SEP:	Contribution to a Third-Party Recipient SEP
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D") - Household Hazardous Waste Clean-Up
Location of SEP:	Ector County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

Respondent shall contribute the SEP amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide local residents with a means of properly disposing household hazardous wastes such as paint, thinners, pesticides, oil and gas, corrosive cleaners, and fertilizers in one day collection events. SEP monies will be used to pay for the associated labor, materials, and disposal costs. Citizens will not be charged disposal fees. The project is administered in accordance with TCEQ guidance on household hazardous waste and in compliance with federal, state, and local environmental laws and regulations. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a means of properly disposing household hazardous waste which might otherwise be disposed of in storm drains, the sewage system, or other means detrimental to the environment.

c. Minimum Expenditure

Respondent shall contribute at least the SEP amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
Attention: Ken Awtrey
P.O. Box 635067
Nacogdoches, Texas 75961

3. Records and Reporting

Concurrent with the payment of the SEP amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

City of Odessa
Agreed Order - Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	23-Jul-2012	Screening	8-Aug-2012	EPA Due	5-Dec-2012
	PCW	13-Aug-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Odessa	
Reg. Ent. Ref. No.	RN101614261	
Facility/Site Region	7-Midland	Major/Minor Source Major

CASE INFORMATION

Enf./Case ID No.	44751	No. of Violations	1
Docket No.	2012-1626-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jacquelyn Green
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$3,750**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **32.0%** Enhancement **Subtotals 2, 3, & 7** **\$1,200**

Notes

Enhancement for one NOV with same/similar violations, one NOV with dissimilar violations, and five months of self-reported effluent violations.

Culpability

No

0.0%

Enhancement

Subtotal 4

\$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments

Subtotal 5

\$0

Economic Benefit

0.0% Enhancement*

Subtotal 6

\$0

Total EB Amounts \$0
Approx. Cost of Compliance \$0

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal

\$4,950

OTHER FACTORS AS JUSTICE MAY REQUIRE

-3.8%

Adjustment

-\$188

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Recommended adjustment to prevent double enhancement of self-reported violations.

Final Penalty Amount

\$4,762

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$4,762

DEFERRAL

20.0%

Reduction

Adjustment

-\$952

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$3,810

Screening Date 8-Aug-2012

Docket No. 2012-1626-MWD-E

PCW

Respondent City of Odessa

Policy Revision 3 (September 2011)

Case ID No. 44751

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101614261

Media [Statute] Water Quality

Enf. Coordinator Jacquelyn Green

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	6	30%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 32%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations, one NOV with dissimilar violations, and five months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 32%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 32%

Screening Date 8-Aug-2012

Docket No. 2012-1626-MWD-E

PCW

Respondent City of Odessa

Policy Revision 3 (September 2011)

Case ID No. 44751

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101614261

Media [Statute] Water Quality

Enf. Coordinator Jacquelyn Green

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010238002, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limitations, as documented in a record review conducted on July 6, 2012, and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 15.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was utilized to evaluate the values for ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. The amounts discharged at the time of the violations were insignificant and did not exceed levels that are protective of human health or the environment.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

61 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,750

One quarterly event is recommended for the quarter containing the months of March and April 2012.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$4,763

This violation Final Assessed Penalty (adjusted for limits) \$4,763

Economic Benefit Worksheet

Respondent City of Odessa
Case ID No. 44751
Reg. Ent. Reference No. RN101614261
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic Benefit is included on the accompanying PCW.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned PCW	23-Jul-2012	Screening	8-Aug-2012	EPA Due	5-Dec-2012
		13-Aug-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Odessa		
Reg. Ent. Ref. No.	RN101614261		
Facility/Site Region	7-Midland	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	44751	No. of Violations	1
Docket No.	2012-1626-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jacquelyn Green
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$2,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **32.0%** Enhancement **Subtotals 2, 3, & 7** **\$800**

Notes Enhancement for one NOV with same/similar violations, one NOV with dissimilar violations, and five months of self-reported effluent violations.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts **\$889**
Approx. Cost of Compliance **\$10,000**
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$3,300**

OTHER FACTORS AS JUSTICE MAY REQUIRE **-3.8%** **Adjustment** **-\$125**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended adjustment to prevent double enhancement of self-reported violations.

Final Penalty Amount **\$3,175**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$3,175**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$635**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY **\$2,540**

Screening Date 8-Aug-2012

Docket No. 2012-1626-MWD-E

PCW

Respondent City of Odessa

Policy Revision 2 (September 2002)

Case ID No. 44751

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101614261

Media [Statute] Water Quality

Enf. Coordinator Jacquelyn Green

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	6	30%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 32%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations, one NOV with dissimilar violations, and five months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 32%

Screening Date 8-Aug-2012

Docket No. 2012-1626-MWD-E

PCW

Respondent City of Odessa

Policy Revision 2 (September 2002)

Case ID No. 44751

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101614261

Media [Statute] Water Quality

Enf. Coordinator Jacquelyn Green

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010238002, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limitations, as documented in a record review conducted on July 6, 2012, and shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was utilized to evaluate the values for ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. The amounts discharged at the time of the violations were insignificant and did not exceed levels that are protective of human health or the environment.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

31 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly event is recommended for the quarter containing the month of July 2011.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$889

Violation Final Penalty Total \$3,175

This violation Final Assessed Penalty (adjusted for limits) \$3,175

Economic Benefit Worksheet

Respondent City of Odessa
Case ID No. 44751
Reg. Ent. Reference No. RN101614261
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	31-Jul-2011	10-May-2013	1.78	\$889	n/a	\$889

Notes for DELAYED costs

Estimated cost to evaluate the cause of non-compliance and to implement corrective actions. Date required is the first date of non-compliance. Final date is the anticipated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$889

City of Odessa
Texas Pollutant Discharge Elimination System Permit No. WQ0010238002
DOCKET NO. 2012-1626-MWD-E

	Ammonia Nitrogen Daily Average Concentration	Ammonia Nitrogen Daily Maximum Concentration
Months:	Limit = 3 mg/L	Limit = 10 mg/L
July 2011	c	14.5
March 2012	6.99	15.5
April 2012	3.75	17.2

mg/L = milligrams per liter
c = compliant

Compliance History Report

Customer/Respondent/Owner-Operator: CN600338354 City of Odessa Classification: AVERAGE Rating: 1.95

Regulated Entity: RN101614261 BOB DERRINGTON WWP Classification: HIGH Site Rating: 0.07

ID Number(s): WASTEWATER AUTHORIZATION R10238002
WASTEWATER PERMIT WQ0010238002
WASTEWATER EPA ID TX0072800
PRETREATMENT EPA ID TX0072800000
PRETREATMENT PERMIT WQ0010238002
WASTEWATER LICENSING LICENSE WQ0010238002

Location: At 9600 South County Road 1325, southeast of Odessa, approximately four miles southeast of the intersection of Interstate Highway 20 and Loop 338, and approximately six miles east-southeast of the intersection of Interstate Highway 20 and United States Highway 385 in Midland County, Texas 79766

TCEQ Region: REGION 07 - MIDLAND

Date Compliance History Prepared: August 08, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 08, 2007 to August 08, 2012

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jacquelyn Green Phone: (512) 239 - 2587

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	03/19/2012	(1004419)	10	07/17/2012	(1016287)
2	04/19/2012	(1010990)	11	05/18/2012	(1017354)
3	06/12/2012	(1013216)	12	08/15/2007	(608489)
4	06/15/2012	(1013587)	13	09/19/2007	(608490)
5	06/15/2012	(1013646)	14	10/17/2007	(608491)
6	06/15/2012	(1013676)	15	10/17/2007	(608492)
7	06/15/2012	(1013693)	16	11/26/2007	(609653)
8	06/15/2012	(1013717)	17	01/10/2008	(613948)
9	07/03/2012	(1015682)	18	01/11/2008	(614010)

19	11/16/2007	(623261)	66	10/28/2009	(780473)
20	12/18/2007	(623262)	67	10/28/2009	(780626)
21	02/19/2008	(674609)	68	12/04/2009	(784668)
22	03/18/2008	(674610)	69	12/04/2009	(784682)
23	04/18/2008	(674611)	70	12/04/2009	(784694)
24	05/19/2008	(692942)	71	12/28/2009	(786286)
25	06/16/2008	(692943)	72	12/28/2009	(786291)
26	07/16/2008	(692944)	73	12/28/2009	(786312)
27	06/25/2008	(699458)	74	12/28/2009	(786544)
28	08/22/2008	(714127)	75	12/28/2009	(786555)
29	09/15/2008	(714128)	76	12/28/2009	(786579)
30	10/17/2008	(714129)	77	12/29/2009	(786606)
31	09/15/2008	(714130)	78	12/29/2009	(786842)
32	02/05/2009	(723921)	79	12/29/2009	(786850)
33	11/17/2008	(730149)	80	06/09/2010	(826322)
34	12/19/2008	(730150)	81	06/09/2010	(826449)
35	02/23/2009	(736083)	82	03/19/2010	(833576)
36	02/19/2009	(753355)	83	04/20/2010	(833577)
37	03/19/2009	(753356)	84	05/19/2010	(833578)
38	04/20/2009	(753357)	85	06/18/2010	(847099)
39	03/19/2009	(753358)	86	07/16/2010	(861569)
40	03/19/2009	(753359)	87	09/22/2010	(864834)
41	07/10/2009	(761287)	88	09/22/2010	(864904)
42	07/10/2009	(761609)	89	09/23/2010	(865086)
43	07/14/2009	(762107)	90	09/24/2010	(865087)
44	07/16/2009	(762432)	91	09/24/2010	(865191)
45	07/20/2009	(762455)	92	09/28/2010	(865488)
46	07/20/2009	(762612)	93	09/28/2010	(865508)
47	07/20/2009	(762859)	94	09/29/2010	(865635)
48	08/03/2009	(762931)	95	08/20/2010	(867894)
49	08/20/2009	(762952)	96	10/14/2010	(870658)
50	07/30/2009	(763546)	97	09/14/2010	(874835)
51	07/30/2009	(763617)	98	10/01/2010	(882430)
52	08/06/2009	(764812)	99	12/15/2010	(884671)
53	08/18/2009	(765214)	100	12/15/2010	(884693)
54	08/24/2009	(767039)	101	12/15/2010	(884701)
55	05/19/2009	(770848)	102	12/15/2010	(884851)
56	06/12/2009	(770849)	103	12/15/2010	(884867)
57	09/25/2009	(777438)	104	12/16/2010	(884880)
58	09/30/2009	(777666)	105	12/16/2010	(884930)
59	10/26/2009	(777667)	106	12/16/2010	(884931)
60	10/02/2009	(778175)	107	12/16/2010	(885039)
61	10/05/2009	(778184)	108	11/18/2010	(888873)
62	10/05/2009	(778234)	109	12/17/2010	(897234)
63	10/15/2009	(779404)	110	01/17/2011	(903137)
64	10/22/2009	(780144)	111	02/23/2011	(910057)
65	10/28/2009	(780466)	112	05/02/2011	(914975)

113	05/02/2011	(914979)	128	08/18/2011	(949409)
114	05/02/2011	(914986)	129	08/18/2011	(949422)
115	05/02/2011	(914990)	130	08/18/2011	(949484)
116	05/02/2011	(914998)	131	08/18/2011	(949498)
117	03/18/2011	(917257)	132	08/18/2011	(949511)
118	02/19/2010	(927763)	133	07/19/2011	(953609)
119	04/19/2011	(927764)	134	08/19/2011	(960226)
120	08/20/2009	(927765)	135	10/25/2011	(963282)
121	09/18/2009	(927766)	136	11/18/2011	(972294)
122	10/20/2009	(927767)	137	10/20/2011	(972295)
123	11/18/2009	(927768)	138	11/18/2011	(978454)
124	12/15/2009	(927769)	139	12/19/2011	(985265)
125	05/19/2011	(938950)	140	03/06/2012	(990101)
126	06/17/2011	(946330)	141	01/20/2012	(991545)
127	08/18/2011	(949390)	142	02/17/2012	(998892)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	06/25/2008	(699458)	CN600338354
Self Report?	NO		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Date:	07/31/2010	(867894)	CN600338354
Self Report?	YES		
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	03/31/2011	(927764)	CN600338354
Self Report?	YES		
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	07/31/2011	(960226)	CN600338354
Self Report?	YES		
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	10/25/2011	(963282)	CN600338354
Self Report?	NO		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Permittee exceeded daily/7-day/monthly maximum permit limitations for ammonia-nitrogen from excursions between March 19-29, 2011. Additionally, the ammonia-nitrogen daily maximum was exceeded on July 1, 2011.		
Date:	03/31/2012	(1010990)	CN600338354
Self Report?	YES		
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	04/30/2012	(1017354)	CN600338354
Self Report?	YES		
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF ODESSA
RN101614261**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2012-1626-MWD-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Odessa ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a water reclamation plant located at 9600 South County Road 1325, southeast of Odessa, approximately four miles southeast of the intersection of Interstate Highway 20 and Loop 338, and approximately six miles east-southeast of the intersection of Interstate Highway 20 and United States Highway 385, Midland County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 21, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Seven Thousand Nine Hundred Thirty-Seven Dollars (\$7,937) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Five Hundred Eighty-Seven Dollars (\$1,587) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Six Thousand Three Hundred Fifty Dollars (\$6,350) shall be conditionally offset by the City of Odessa's completion of a Supplemental Environmental Project ("SEP").
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010238002, Effluent Limitations and Monitoring Requirements No. 1, as documented in a record review conducted on July 6, 2012, and shown in the table below:

	Ammonia Nitrogen Daily Average Concentration	Ammonia Nitrogen Daily Maximum Concentration
	Limit = 3 mg/L	Limit = 10 mg/L
Months:		
July 2011	c	14.5
March 2012	6.99	15.5
April 2012	3.75	17.2

mg/L = milligrams per liter
c = compliant

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Odessa, Docket No. 2012-1626-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Six Thousand Three Hundred Fifty Dollars (\$6,350) of the assessed administrative penalty shall be offset with the condition that the Respondent implements the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010238002, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Midland Regional Office
Texas Commission on Environmental Quality
3300 North A Street, Building 4, Suite 107
Midland, Texas 79705-5404

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Ramona Garcia
For the Executive Director

4/9/13
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Richard Morton
Signature

12-21-12
Date

Richard Morton
Name (Printed or typed)
Authorized Representative of
City of Odessa

City Manager
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2012-1626-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Odessa
Payable Penalty Amount:	Six Thousand Three Hundred Fifty Dollars (\$6,350)
SEP Amount:	Six Thousand Three Hundred Fifty Dollars (\$6,350)
Type of SEP:	Contribution to a Third-Party Recipient SEP
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D") - Household Hazardous Waste Clean-Up
Location of SEP:	Ector County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

Respondent shall contribute the SEP amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide local residents with a means of properly disposing household hazardous wastes such as paint, thinners, pesticides, oil and gas, corrosive cleaners, and fertilizers in one day collection events. SEP monies will be used to pay for the associated labor, materials, and disposal costs. Citizens will not be charged disposal fees. The project is administered in accordance with TCEQ guidance on household hazardous waste and in compliance with federal, state, and local environmental laws and regulations. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a means of properly disposing household hazardous waste which might otherwise be disposed of in storm drains, the sewage system, or other means detrimental to the environment.

c. Minimum Expenditure

Respondent shall contribute at least the SEP amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
Attention: Ken Awtrey
P.O. Box 635067
Nacogdoches, Texas 75961

3. Records and Reporting

Concurrent with the payment of the SEP amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.